



City of PHENIX CITY Alabama

601-12th STREET
PHENIX CITY, ALABAMA 36867

JEFF HARDIN
MAYOR

RAY BUSH
COUNCIL MEMBER AT LARGE

JOHN STOREY
COUNCIL MEMBER DISTRICT 1

GAIL BRANTLEY
COUNCIL MEMBER DISTRICT 2

ARTHUR SUMBRY
COUNCIL MEMBER DISTRICT 3

I. H. (Bubba) ROBERTS
CITY MANAGER

BARBARA GOODWIN
PERSONNEL DIRECTOR

MARTHA HARRIS
CITY CLERK

TO: All Employees

FROM: H. H. Roberts, City Manager

DATE: September 20, 2005

Recently there was an article in the Ledger-Enquirer Newspaper regarding our fire department. Several fire fighters made comments in the paper that were likely to impair discipline and harmony in the workplace, impede job performance and jeopardize loyalty in the department.

While the City recognizes the right to free speech, that speech must be exercised in accordance with the merit system rules and regulations. If any employee has a specific grievance, it shall be presented in accordance with the procedure provided by the merit system. I encourage anyone with a grievance to follow the grievance procedure.

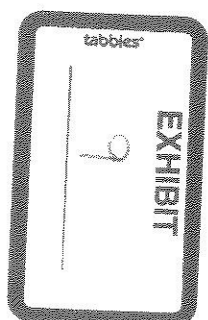
It occurred to me that some employees might not be as familiar as they should be with the merit system rules in regard to free speech and grievances. Therefore, I have attached hereto some of the pertinent merit system rules as they relate to free speech and grievances. These rules must be followed. The best way to build and maintain an effective and harmonious work environment is for everyone to know and follow these rules. Failure to follow the rules in the future will be dealt with in accordance with the merit system.

Copy of Merit System Rules and Regulations Section 2.054 Free Speech and Section 15.02 Employee Complaints and Grievances was received by employee on this date. Signed acknowledgement will be placed in employee's personnel file.

Employee Name
Ruth Friedman

9/22/05
Date

The information contained in this memo is legally privileged and confidential information intended only for the individual or entity named above. If the reader of this memo is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this memo is strictly prohibited.



COUNSELING FORM

Employee Name: David P. Davis Date: 21 September 2005
 Date of Hire: 27 April 1998 SS# 256-19-1294
 Department: Fire Division _____

A counseling session was conducted to the above named employee this date for the following reasons:

Sgt. David Davis was counseled by Chief Hunter and Assistant Chief Johansen on 20th of September 2005, concerning him making or publishing statements to the local media concerning fire department issues which has resulted in impaired discipline and harmony, also speech which has jeopardized close personal loyalties in the workplace. Sgt. Davis was advised of his freedom of speech and the merit system rules and regulations.

Sgt. Davis was also counseled for continuous attempts to force unwanted attention through intimidation, coercing or interfering with a co-worker. (FF B. Wilkinson)

Fire Fighter B. Wilkinson informed Sgt. Davis that IAFF derogatory statements and comments directed towards him would not be tolerated.

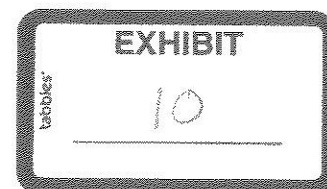
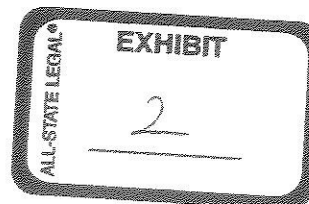
A counseling session has been discussed with me and I understand this notice will become part of my personnel file.

Employee Signature _____

Date _____

Supervisor Signature _____

Date _____



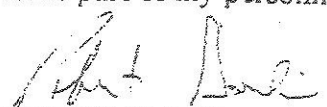
COUNSELING FORM

Employee Name: Robert Gaskin Date: 21 September 2005
Date of Hire: 9 January 1989 SS# 525-15-0534
Department: Fire Division _____

A counseling session was conducted to the above named employee this date for the following reasons:

Captain Robert Gaskin was counseled by Chief Hunter and Assistant Chief Johansen on 20th of September 2005, concerning him making or publishing statements to the local media concerning fire department issues which has resulted in impaired discipline and harmony, also speech which has jeopardized close personal loyalties in the workplace. Captain Gaskin was advised of his freedom of speech and the merit system rules and regulations.

A counseling session has been discussed with me and I understand this notice will become part of my personnel file.


Employee Signature

9.21.05
Date


Supervisor Signature

20 Sept 2005
Date

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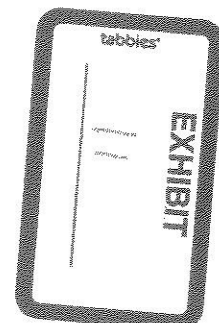
MERIT SYSTEM RULES AND REGULATIONS

department head status, may contact his department head for advice and counseling, and an answer shall be given to the employee within three working days. If the employee is not satisfied with the answer, he shall follow the next step in the procedure. **Note:** If the matter involves sexual harassment, follow procedures in section 15.024 below.

- B. If the grievance is not resolved by the immediate supervisor to the satisfaction of the employee, or if the decision has not been made by the immediate supervisor within three days, the employee may discuss the matter with the next higher level of management. An answer shall be given to the employee within three working days. If the employee is not satisfied with the answer he/she shall follow the next step in the procedure.
- C. The employee may submit the grievance to the department head in writing. The department head, within five working days, shall render a written decision which shall state the problem, the applicable policy or regulation, and the reasons for applying the policy and decision. Copies of the department head's decision shall be forwarded to the employee, division head, immediate supervisor, and the Personnel Director. If the employee is not satisfied with the answer, he/she shall follow the next step in the procedure.
- D. The employee may submit the grievance to the City Manager in writing. The City Manager shall put in writing the decision he/she has rendered concerning the grievance within five working days from the receipt of the written grievance from the employee. The decision of the City Manager shall be final, and the employee shall have no further rights of administrative appeal.

15.024 PROCEDURE FOR PRESENTATION OF A GRIEVANCE INVOLVING SEXUAL HARASSMENT

- A. Any employee having a complaint involving sexual harassment may, but is not required to, inform the immediate supervisor. If the complaint involves the supervisor the employee will by-pass supervisory channels and report the matter to the department head, Personnel Director or City Manager as appropriate.
- B. Any official or supervisor who receives a complaint or has knowledge of an allegation of sexual harassment will advise the Personnel Department the same working day. No other discussion or disclosure of the allegation is permitted.
- C. The Personnel Department will immediately log the allegation and will open a file.
- D. The Personnel Director or designated representative will interview the complainant within 24 hours and will obtain specific information regarding the time, place, and circumstances of the above incident.



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City Manager within three days of the completion of the hearing.

- G. In cases of disciplinary actions, the City Manager may accept the findings and opinion of the Personnel Board or may determine that the disciplinary action needs to be modified; the City Manager shall recommend a course of action to the Personnel Board. Within seven days after receiving the request, the Personnel Board shall reaffirm or modify its original findings and opinion in writing to the City Manager. The decision of the Personnel Board shall be final unless appealed by the City Manager to the City Council. The employee shall have no further right of administrative appeal. The employee and all parties affected shall be promptly notified in writing of the final decision.

- H. The City Attorney shall be present and represent the city at all Personnel Review Board hearings

15.02 EMPLOYEE COMPLAINTS AND GRIEVANCES

Disciplinary actions, dismissals, demotions, suspensions, fines, reduction in pay, position classifications and allocations shall not be subject to review as grievances.

Other complaints and grievances which an employee may have because of an action affecting his status or conditions of employment shall be handled in the procedure outlined in this section.

15.021 PURPOSE OF A GRIEVANCE

The primary purpose of a grievance procedure shall be to determine what is right rather than who is right. Free discussion between employees and supervisors will lead to a better understanding by both of practices, policies and procedures which affect employees. This will tend to identify and eliminate conditions which may cause misunderstanding and grievances. The intended purpose is defeated if a spirit of conflict enters into the consideration of a grievance. Supervisors and employees alike shall recognize the true purpose of a grievance procedure if it is to be of value in promoting the well-being of the City Service.

15.022 DEFINITION OF A GRIEVANCE

A grievance is a complaint--a view or opinion pertaining to employment conditions, to relationships between employees and supervisors, or to relationships with other employees. Disciplinary actions, dismissals, demotions, suspensions, fines, reduction in pay, position classifications and allocations shall not be subject to review as a grievance. (See Employee Appeals, Section 15.01)

15.023 PROCEDURE FOR PRESENTATION OF A GRIEVANCE

- A. Any employee having a complaint, (a view or opinion supported by facts), pertaining to employment conditions or relationships with his immediate supervisor or other employees (not involving sexual harassment) shall first discuss the matter with his immediate supervisor. The supervisor, if not

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MERIT SYS

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2.053 LIBERTY INTEREST

The city recognizes that each employee has a liberty interest in his or her employment and will not disclose the reasons for any adverse personnel action without due process as provided in 2.051 above.

2.054 FREE SPEECH

The city will not discharge an employee for the exercise of his or her right to free speech unless the city can show a compelling interest in abridgement of this rights and the employee has been granted due process. The right of employees to freedom of speech will not be abridged except in the following situations:

- A. Speech which impairs discipline and harmony in the workplace.
- B. Speech which breaches confidentiality or privileged information.
- C. Speech which impedes job performance.
- D. Speech which jeopardizes close personal loyalty.

2.055 EQUAL PROTECTION

The city will not discriminate against any classification of individuals regardless of whether the classification is prohibited or not prohibited by statutes.

2.056 FREEDOM OF ASSOCIATION

The city upholds the right of free association for employees which includes the right to join or not to join political parties and other groups.

2.057 THE RIGHT TO PRIVACY

The city will conduct workplace searches including drug testing only on the basis of reasonable suspicion that a prohibited activity may be taking place. Where public safety is involved however, such as with police officers, fire fighters and emergency medical technicians the city may conduct blanket or random drug testing.

**CITY OF PHENIX CITY
FIRE DEPARTMENT**

ASOP 12

ADDRESSING CITY COUNCIL

PURPOSE: To insure the orderly handling of work-related business of the Fire Department personnel.

SCOPE: This procedure shall be followed by all members of the Phenix City Fire Department.

PROCEDURE:

1. If a member of the Fire Department has a problem with the Department, a Department, or City operations or procedures which are work-related and finds it necessary to go above his/her immediate supervisor, he/she must notify the supervisor of the intention to do so.
2. If a member of the Fire Department finds it necessary to go outside the Department, the Fire Chief will be given a reasonable time to make an appointment with the Public Safety Director.
3. If a problem cannot be solved by anyone in the chain of command, then the City Manager will arrange a hearing with the City Council.
4. If any Fire Department member appears before the City Council or directly contacts City Council members about work-related problems without following these procedures, they will be subject to disciplinary action in accordance with Section VI-X of the City of Phenix City Personnel Policies.

** a member of the Fire Department has a grievance, that member must follow the grievance procedures as outline in Section XV of the City of Phenix City Personnel Policies.*

JANUARY 1998

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COPY



Phenix City Fire/Rescue Services

*1111 Broad Street
Phenix City, Alabama 36867
(334) 448-2817*

H. H. Roberts, City Manager



*Roy Waters
Deputy Chief*

*Wallace B. Hunter
Fire Chief*

*Kristin Kennedy
Assistant Chief/Fire Prevention*

*Kenneth Johansen Michael Hanson
Assistant Chief Assistant Chief*

*James Jackson Bobby Brooks
Assistant Chief Captain/Training Officer*

Memo

TO: Wallace B. Hunter, Fire Chief
FROM: Roy Waters, Deputy Chief *RW*
DATE: February 6, 2006
RE: Letter to Mr. H. H. Roberts

On Monday, February 6, 2006, I met with D/E David Davis at Station #3. The purpose of the meeting was to discuss the letter Mr. Roberts received from Mr. Schaitberger. I asked David how he thought everything in the department was going. David told me everything was going good and he didn't have any complaints.

I asked David about the letter from Mr. Schaitberger and David told me he did not have anything to do with the letter. David also told me, Mr. Thomas Malone called him on Saturday, February 4, 2006 and told him about the letter, so he wouldn't be caught off guard.

David informed me that the letter was generated by Mr. Malone as a result of him not being allowed to remain at and participate in the administrative hearing that took place during the Fall of 2005.

I am convinced that David Davis is being honest and forthright, concerning the letter sent to Mr. Roberts. As I have communicated to you on several accessions, David Davis is doing an outstanding job for me and has a very positive and professional attitude.

.cc D/E David Davis
file

EXHIBIT

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City of PHENIX CITY Alabama

601 - 12TH STREET
PHENIX CITY, ALABAMA 36868
(334) 448-2720 • FAX (334) 291-4702

JEFF HARDIN
MAYOR

RAY BUSH
MAYOR PRO TEM

JOHN STOREY
COUNCIL MEMBER DISTRICT 1

GAIL BRANTLEY
COUNCIL MEMBER DISTRICT 2

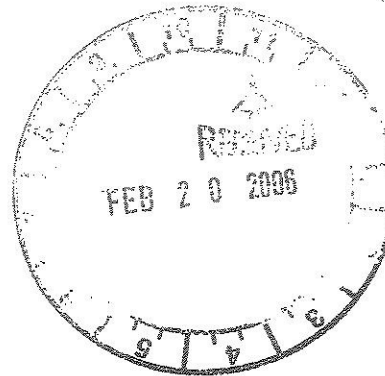
ARTHUR SUMBRY
COUNCIL MEMBER DISTRICT

1. (Bubba) ROBERTS
CITY MANAGER

MARTHA HARRIS
CITY CLERK

February 14, 2006

Mr. Harold A. Schaitberger
General President
Internal Association of Fire Fighters
1750 New York Avenue, N. W.
Washington, D.C. 20006-5395



RE: David Davis Personnel Hearing

Dear Mr. Schaitberger:

I am in receipt of and have reviewed your letter to me of January 31, 2006. The hearing involving Mr. Davis occurred in August of 2005. At that time, Mr. Davis expressed his concerns. Since that time, I believe his concerns have been satisfactorily addressed. Our Deputy Chief spoke with Mr. Davis upon receipt of your letter and Mr. Davis expressed that he thought everything in the department was going good and that he did not have any complaints.

We are working hard to promote harmony within our department. We try to treat our firefighters well and with respect. We want to have an excellent department that is professional inside and out and provides for the public safety of our citizens. We believe we have achieved that goal, but are always looking for ways to improve.

Thank you for bringing your concerns to my attention.

Sincerely,

H. H. Roberts
City Manager
City of Phenix City

HR:cw



ORDINANCE NO. 2006-13

AN ORDINANCE TO AMEND SECTION 9.01 OF THE MERIT SYSTEM RULES AND REGULATIONS OF THE CITY OF PHENIX CITY, ALABAMA.

Be it ordained by the City Council of the City of Phenix City, Alabama:





That the Merit System Rules and Regulations of the City of Phenix City, Alabama, Section 9.01 is hereby amended as follows:

9.01 DURATION

The probationary period shall be twelve months in duration for all classes with exception to police officers, firefighters and code enforcement officers. Due to the length of the required certification programs for police officers, firefighters and code enforcement officers the probationary period for new hires shall be eighteen months. The probationary period for promotions shall be twelve months.

PASSED, APPROVED and ADOPTED this 18th day of April, 2006.


MAYOR





MEMBERS OF THE CITY COUNCIL OF THE
CITY OF PHENIX CITY, ALABAMA

ATTEST:


CITY CLERK

EXHIBIT

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